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**RE: The UN Declaration on the Rights of Indigenous Peoples and Canada's response to recommendations from UPR4**

Dear Ministers:

The Coalition for the Human Rights of Indigenous Peoples brings together Indigenous governments and representative bodies, Canadian human rights organizations, and individual experts actively engaged in promoting the human rights of Indigenous Peoples. The Coalition was originally formed almost 25 years ago to promote and support the adoption of the *United Nations Declaration on the Rights of Indigenous Peoples* by the UN General Assembly – which took place on September 13, 2007. Our members have continued to work together to support the full implementation of the *Declaration* by Indigenous Peoples and federal, provincial, and territorial governments in Canada.

As you are aware, the majority of recommendations to Canada in UPR4 concern the human rights of Indigenous Peoples. These recommendations are all deserving of careful attention and a detailed, concrete response.

The Coalition would like to highlight in particular two clusters of recommendations concerning critical, outstanding aspects of *UN Declaration* implementation: ensuring that the laws of Canada are consistent with the *Declaration* and establishing ongoing mechanisms to monitor implementation and provide recourse to Indigenous Peoples where Canada's actions are inconsistent with its human rights obligations.

There were two recommendations by States on consistency of Canada's laws:

Fully align federal, provincial and territorial legislation with the United Nations Declaration on the Rights of Indigenous Peoples (Dominican Republic)

## Bring federal, provincial and territorial legislation fully into line with the United Nations Declaration on the Rights of Indigenous Peoples (Croatia)

These recommendations closely align with concerns previously raised by the Coalition, including our public response to Canada's June 2023 Action Plan.<sup>1</sup>

The *United Nations Declaration on the Rights of Indigenous Peoples Act* (S.C. 2021, c. 14, s. 5) requires the government of Canada to “take all measures necessary to ensure that the laws of Canada are consistent with the Declaration.” This requirement is both immediate and ongoing: in other words, it requires not only a process to review and amend legislation, it also requires careful consideration of how existing laws, regulations, and policies are being interpreted and applied. Furthermore, like all other requirements in the Act, there is an explicit requirement that measures to achieve legal consistency are to be undertaken in consultation and cooperation with Indigenous Peoples. Unfortunately, there is little clarity about how the Government of Canada intends to honour this obligation.

The recommendations made by the governments of the Dominican Republic and Croatia are very specific. They cannot be adequately addressed by a general assurance that Canada is committed to implementing the *UN Declaration*. The Coalition urges the Government of Canada to address the following questions in its response to these recommendations:

- What is the timeline for reviewing existing legislation to ensure consistency with the *Declaration*?
- How will the federal government work in consultation and cooperation with Indigenous Peoples to carry out such a review?
- What training and other measures are being taken to ensure that officials in all federal departments are aware and able to fulfill their obligation to implement laws and policies in a manner consistent with the *UN Declaration*?
- What measures are the federal government taking to encourage and facilitate measures by provincial and territorial governments to also undertake collaborative action with Indigenous Peoples with the aim of ensuring that all the laws of Canada are consistent with the *UN Declaration*?

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<sup>1</sup> Coalition for the Human Rights of Indigenous Peoples, “Joint Statement on the Release of Canada’s UN Declaration on the Rights of Indigenous Peoples Act National Action Plan: Effective oversight and accountability mechanisms critical to implementation of the UN Declaration on the Rights of Indigenous Peoples,” 29 June 2023. Endorsed by Amnesty International Canada English Section; Amnistie Internationale Canada Francophone; British Columbia Assembly of First Nations; British Columbia Treaty Commission; Canadian Friends Service Committee (Quakers); Cheryl Knockwood, Chair, Nova Scotia Human Rights Commission First Nations Summit; Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government; Lea Nicholas-MacKenzie, former Special Advisor on Indigenous Issues at the Canadian Mission to the UN; Professor Sheryl Lightfoot, University of British Columbia; Union of British Columbia Indian Chiefs. <https://www.declarationcoalition.com/latest/>

The second cluster of recommendations that we would like to highlight concern accountability mechanisms:

Strengthen its national mechanism for comprehensive reporting and follow up in relation to recommendations received from international human rights mechanisms and treaty obligations (Sri Lanka)

Establish a National Mechanism for Implementation, Reporting and Follow-up and consider the possibility of receiving cooperation (Paraguay)

Indigenous Peoples and civil society organizations have long been concerned over the absence of formal oversight and accountability mechanisms for implementing Canada's international human rights obligations. In 2014, Prime Minister Trudeau told the UN General Assembly, "We know that the world expects Canada to strictly adhere to international human rights standards – including the *United Nations Declaration on the Rights of Indigenous Peoples* – and that is what we expect of ourselves, too." In reality, however, recommendations to Canada by international human rights mechanisms, including Treaty Bodies and Special Rapporteurs, often appear to have little impact: little effort is made to engage Indigenous Peoples in examination of these recommendations and it appears that they are rarely acted on.

Any national mechanism or mechanism for implementation, reporting, and follow-up must be responsive to the distinct rights and needs of Indigenous Peoples and developed in consultation and cooperation with Indigenous Peoples. Furthermore, the Coalition would like to underline that the *UN Declaration Implementation Act* already commits Canada to developing "measures related to monitoring, oversight, recourse or remedy or other accountability measures with respect to the implementation of the Declaration." In the Coalition's view, any such mechanism or mechanisms should include within their scope the ability to engage with international human rights mechanisms and processes and consider their recommendations to Canada.

Accordingly, we encourage the Government of Canada to provide a detailed response to these two UPR4 recommendations, setting out:

- Canada's commitment to the creation of new accountability mechanisms for upholding the internationally recognized and protected rights of Indigenous Peoples
- Concrete indication of the process by which Canada will work with Indigenous Peoples to create these mechanisms and the approximate timeline to implementation

Coalition members would be happy to meet with you or your officials at a mutually convenient time to discuss these concerns.